

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. CV 22-9203 MEMF (KS) Date: October 19, 2023

Title *Clinton Brown v. Clark R. Taylor*

Present: The Honorable: Karen L. Stevenson, Chief United States Magistrate Judge

Gay Roberson
Deputy Clerk

N/A
Court Reporter / Recorder

Attorneys Present for Plaintiff: N/A

Attorneys Present for Defendants: N/A

**Proceedings: (IN CHAMBERS) NOTICE RE: DEFENDANTS’ MOTION FOR
SUMMARY JUDGMENT [DKT. NO. 82] AND ORDER SETTING
BRIEFING SCHEDULE**

On October 18, 2023, Defendants filed a Motion for Summary Judgment supported by a Request for Judicial Notice, ten exhibits, a declaration by Defendants’ counsel, and a proposed order (collectively “Defendants’ Summary Judgment Motion”). (Dkt. No. 82.) Pursuant to Local Rule 7-15, Defendants’ Summary Judgment Motion will be considered on the papers filed by the parties, absent further Court order. The date set for hearing on Defendants’ Summary Judgment Motion, November 15, 2023, at 10:00 a.m., is hereby **VACATED**.

By this Order, the Court sets the following briefing schedule for Defendants’ Summary Judgment Motion:

1. Plaintiff shall file and serve his Opposition to Defendants’ Summary Judgment Motion and Local Rule 56-2 Statement of Genuine Issues no later than **November 20, 2023**; and
2. Defendants shall file and serve a Reply within twenty-one (21) days of receipt of the Opposition.

The Court hereby provides Plaintiff with the following notice of his obligations with respect to Defendants’ Summary Judgment Motion:

By Defendants’ Summary Judgment Motion, Defendants seek judgment in their favor as a matter of law. In particular, Defendants’ Summary Judgment Motion requests that a final

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judgment be entered in favor of Defendants without a trial. **In other words, if the Court grants Defendants’ Summary Judgment Motion, Plaintiff will lose.**

Summary judgment motions are governed by Rule 56 of the Federal Rules of Civil Procedure and by Local Rule 56-1 through 56-3 of this Court. Accordingly, Plaintiff is advised to review Rule 56 of the Federal Rules of Civil Procedure and these Local Rules. Plaintiff should note that Fed. R. Civ. P. 56 and Local Rule 56-2 set forth the requirements for opposing a summary judgment motion.

Moreover, Plaintiff should be aware of, and familiar with, the following United States Supreme Court cases concerning summary judgment standards: *Celotex v. Catrett*, 477 U.S. 317 (1986); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986); *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574 (1986).

Defendants’ Summary Judgment Motion sets forth the facts that Defendants contend are not reasonably disputed in this case and argues that these facts entitle Defendants to judgment in Defendants’ favor as a matter of law. Unless Defendants’ Summary Judgment Motion fails as a matter of law, Plaintiff may not rest upon the mere allegations in Plaintiff’s pleadings to defeat the Summary Judgment Motion, but must, in opposing the Motion, submit admissible evidence demonstrating that a genuine dispute exists concerning a fact material to the case. As set forth below, Plaintiff must set out specific facts as provided in Rule 56(c) of the Federal Rules of Civil Procedure—such as through declarations, answers to interrogatories, depositions, or authenticated documents—which will contradict the facts shown by Defendants’ Summary Judgment Motion so as to show that there is a genuine issue of material fact for trial.

Plaintiff is expressly warned that, if he fails to submit admissible evidence contradicting Defendants’ version of the facts, the Court may accept Defendants’ version of the facts as truth. If the Court accepts Defendants’ version of the facts as the truth, the Court may grant Defendants’ Summary Judgment Motion and enter final judgment against Plaintiff without any trial.

Further, Plaintiff is advised that, if he opposes Defendants’ Summary Judgment Motion, Local Rule 56-2 requires that he must serve and file, along with his opposing papers, a separate

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document containing a concise “Statement of Genuine Disputes” setting forth all material facts as to which Plaintiff contends exists a genuine factual issue required to be litigated.

In opposing Defendants’ Summary Judgment Motion, Plaintiff must submit some *proof*, in the form of admissible documentary *evidence*, which supports his claims and sets forth specific facts showing that there are genuine and material issues in dispute which require a trial. *See Klingele v. Eikenberry*, 849 F.2d 409, 411–12 (9th Cir. 1988). Plaintiff may do this in one or more of the following ways:

- (A) Plaintiff may serve and file one or more **affidavits or declarations** of witnesses (including Plaintiff), which set forth the facts that Plaintiff believes will prove his claims. **Affidavits or declarations must be signed under penalty of perjury** by the person making the affidavit or declaration. The person making the affidavit or declaration must have personal knowledge of the facts stated and be competent to testify to the matter contained in the affidavit or declaration.
- (B) Plaintiff also may rely upon other written records if there is evidence that the records are authentic and accurate. Generally, this means that Plaintiff must explain, under penalty of perjury, what the documents mean, where Plaintiff obtained them, and that they are true and correct copies.
- (C) Plaintiff also may rely upon all or any part of the transcript of a deposition, or on answers to interrogatories, or on admissions obtained through discovery in this case. Again, Plaintiff should call to the Court’s attention the parts of such documents upon which Plaintiff relies in opposing summary judgment.

Pursuant to Local Rule 56-3, the Court will assume that material facts claimed and adequately supported by Defendants have been admitted by Plaintiff, except to the extent that: (1) Plaintiff controverts the material facts by including them in the “Statement of Genuine Disputes”; and (2) Plaintiff also controverts these same material facts by affidavit, declaration, or other written evidence filed in opposition to Defendants’ Summary Judgment Motion.

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Plaintiff is expressly cautioned that his failure to file and serve a timely Opposition to Defendants' Summary Judgment Motion may result in the granting of the Summary Judgment Motion.

IT IS SO ORDERED.

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Initials of Preparer	_____
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